

**SAN DIEGO UNIFIED PORT DISTRICT**

**DATE:** June 9, 2009

**SUBJECT: RESOLUTION ADOPTING PLANS AND SPECIFICATIONS FOR THE BROADWAY PIER CRUISE SHIP TERMINAL NO. 2008-27, REJECTING THE LOW BID FROM LEDCOR CONSTRUCTION AS NON-RESPONSIVE, AWARDING CONTRACT NO. 2008-27 TO JAYNES CORPORATION OF CALIFORNIA, FOR THE BROADWAY PIER CRUISE SHIP TERMINAL PROJECT IN THE AMOUNT OF \$17,444,003, AND AUTHORIZING THE ALLOCATION OF FUNDS IN THE AMOUNT OF \$1,829,003 TO THE BROADWAY PIER CRUISE SHIP TERMINAL PROJECT FROM THE FY 09-13 CAPITAL DEVELOPMENT PROJECT CONTINGENCY FUNDS**

**EXECUTIVE SUMMARY:**

The Broadway Pier Cruise Ship Terminal Project includes construction of a new 52,000 square foot cruise ship terminal building on Broadway Pier, a mobile passenger gangway, and the first of two (2) phases of pier seismic improvements.

Construction bids were opened on May 19, 2009. Fourteen (14) bidders responded with bids ranging from \$17,415,000 to \$21,575,000. Two (2) bids were found to be non-responsive, including the apparent low bidder (Ledcor Construction). Staff recommends the Board adopt the plans and specifications No. 2008-27 for the project, reject the low bid from Ledcor Construction as non-responsive, and award Contract No. 2008-27 to Jaynes Corporation of California, the lowest responsive bidder in the total amount of \$17,444,003.

In addition, to fully fund the cost to complete this project, staff recommends \$1,829,003 be allocated for the Broadway Pier Cruise Ship Terminal Project from the FY 09-13 Capital Development Program (CDP) contingency funds.

**RECOMMENDATION:**

Resolution adopting plans and specifications for the Broadway Pier Cruise Ship Terminal project, No. 2008-27, rejecting the low bid from Ledcor Construction as non-responsive, awarding Contract No. 2008-27 to Jaynes Corporation of California for the Broadway Pier Cruise Ship Terminal, San Diego, California Project in the amount of \$17,444,003, and authorizing the allocation of funds in the amount of \$1,829,003 to the Cruise Ship Terminal Project from the FY 09-13 Capital Development Project Contingency funds.

**FISCAL IMPACT:**

Based upon the lowest responsible and responsive bid received, the cost to complete the project is \$21,127,003 as outlined below:

Building Construction	\$12,219,219
Gangway Construction	\$2,155,163
Phase One Pier Seismic Upgrade Construction	\$3,069,621
Building and Gangway Construction Contingency - Approx 9%	\$1,250,000
Phase One Pier Seismic Upgrade Construction - Approx 9%	\$313,000
Construction Admin – Internal, external, inspection, and testing	\$1,670,000
Public Art (proposed art wall)	\$450,000
<b>Total Estimated Project Cost</b>	<b>\$21,127,003</b>

Funding for this project is available from three (3) sources:

**Capital Development Program – Terminal and Gangway**

\$15,515,379 in uncommitted funds remain in the FY 2009 to 2013 Capital Development Program (CDP) for the terminal building and gangway portion of the project. At the September 2008 BPC meeting, an estimated funding shortfall of \$4,226,000 was presented to the Board. Instead of addressing the funding shortfall at the September meeting, the Board directed staff to proceed with the project, complete the design and advertise the project for construction bids to confirm the actual funding variance.

Based upon the bid results, it is now estimated that \$17,344,382 in CDP funds are required to complete the project. The shortfall is less than estimated in September because of favorable bids. It is now recommended that \$1,829,003 be allocated to the Cruise Ship Terminal Project from the FY 09-13 CDP contingency fund to fully fund the cost to complete the project, including \$450,000 in funds for the public art wall. The art contract will go before the Board for consideration at a future meeting.

**Environmental Fund – Photovoltaic and LEED Certification**

At the October 2008 Board meeting, the Board authorized up to \$800,000 in Environmental Funds be used for the photovoltaic system/solar panels and the LEED certification building features. Based upon the bid results, \$400,000 of the authorized amount can be applied towards these items.

**Major Maintenance Program – Seismic Pier**

Funds for the seismic pier improvements portion of the project are included in the Capitalized Major Maintenance Program Budget. Phase 1 will improve the portion of the pier that supports the terminal building. The estimated cost to complete phase 1 is \$3,382,621, including construction and contingency.

The funding is summarized as follows:

Capital Development Project Funds	\$17,344,382
Environmental Funds	\$400,000
Major Maintenance Funds	\$3,382,621
<b>Total Estimated Project Cost</b>	<b>\$21,127,003</b>

**COMPASS STRATEGIC GOALS:**

Benefits of the Broadway Pier Cruise Ship Terminal Project include support of local businesses, increases in economic activity, and incorporation of sustainability features that will enhance opportunities for environmental outreach and awareness.

This agenda item supports the following Strategic Goal(s):

- Promote the Port's maritime industries to stimulate regional economic vitality.
- Enhance and sustain a dynamic and diverse waterfront.
- Protect and improve the environmental conditions of San Diego Bay and the Tidelands.
- Ensure a safe and secure environment for people, property and cargo.
- Develop and maintain a high level of public understanding that builds confidence and trust in the Port.
- Develop a high-performing organization through alignment of people, process and systems.
- Strengthen the Port's financial performance.
- Not applicable.

**DISCUSSION:**

At the September 2008 Board meeting, Staff was authorized to complete the design of the Broadway Pier Cruise Ship Terminal and advertise the project for construction bids. Implementation of the project proceeded, and the contract documents were prepared and advertised beginning April 9, 2009. The bid documents included the terminal building (approximately 52,000 square feet), a mobile passenger gangway, and Phase 1 pier seismic improvements. Phase 1 is the section of the pier supporting the terminal building. Phase 2 is the remainder of the pier.

Bids were opened on May 19, 2009. A total of fourteen (14) construction bids were received. Two (2) of the bids were determined to be non-responsive. The engineer's construction cost estimate was \$20,649,000. The following is a summary of the bids received:

<b>Company</b>	<b>Bid Amount</b>	<b>Location</b>	<b>Responsive</b>
Ledcor Construction	\$17,415,000	San Diego	No
Jaynes Corporation	\$17,444,003	San Diego	Yes
Edge Development, Inc.	\$17,724,481	Temecula	Yes
Whiting-Turner Contracting Co.	\$18,017,893	Solana Beach	Yes
PCL Construction Services	\$18,265,001	San Diego	Yes
Bayley Construction	\$18,325,634	Santa Ana	Yes
Cox Construction Co.	\$18,600,000	Vista	Yes
Roel Construction Co., Inc.	\$18,704,450	San Diego	Yes
CW Driver	\$18,857,000	Pasadena	Yes
Reno Contracting, Inc.	\$19,031,538	San Diego	Yes
FTR International, Inc.	\$19,500,000	Irvine	Yes
Barnhart, Inc.	\$19,795,323	San Diego	Yes
Adolfo's Construction	\$20,258,321	Garden Grove	No
RSM2 Contractors, Inc.	\$21,575,000	La Mesa	Yes

**Non-responsive Bidders****Ledcor Construction, Inc.**

Per the Port's specifications for the Broadway Pier Cruise Ship Terminal No. 2008-27 section 4.5.13, the Bidders Gangway Experience includes the following:

*The Bidder, or respective sub-contractor, shall have completed at least one mobile passenger gangway system construction contract for a cruise ship terminal within the last five years that included the ability to meet variable heights and ADA requirements. The Bidder shall provide with submission of the bid a reference contact for each of the relevant contracts. Failure to possess the required experience or failure to provide the required reference will be cause for rejection of the bid pursuant to paragraph 4.2.2 of the Instructions to Bidders.*

Per review of the Ledcor Construction Inc. bid package dated May 8, 2009, and review of the above specification, Staff has the following issues regarding the qualifications of the Maritime Hydraulics/CMC Engineering and Management Ltd. team:

- 1) Maritime Hydraulics is listed as the Gangway subcontractor per the Subcontractor Listing Information. Maritime Hydraulics is a manufacturer and design/build fabricator for the gangway. CMC Engineering and Management, Ltd. is not listed as a subcontractor on the project.

- 2) Per bid reference materials submitted, Maritime Hydraulic provides reference to numerous ramps and a *"portable gangway platform system for the Saint John Port Authority"*. The completion date and mobile passenger specifics are unknown. Through review of all bid reference materials provided, Maritime Hydraulics has not completed a mobile passenger gangway system construction contract for a cruise ship terminal within the last five years.
- 3) For this proposal, Maritime Hydraulics has partnered with CMC Engineering and Management Ltd., a design firm which provides design and technical support services. Bid reference material for CMC Engineering and Management Ltd indicates design/planning services for numerous passenger gangway systems, including the Prince Rupert Port Authority in 2003. The exact scope of work from CMC Engineering and Management Ltd for the Prince Rupert project is not able to be determined (Construction or Construction Monitoring?). Per materials provided, none were demonstrated to be mobile passenger gangway system construction contracts for a cruise ship terminal within the last five (5) years.
- 4) Maritime Hydraulics/CMC Engineering and Management Ltd. provided no evidence that they have worked together in the past. The reference material states that they have formed an "ad hoc association" specifically for the Broadway Cruise Ship Terminal proposal.
- 5) Staff researched the Prince Rupert website to review the Prince Rupert Port Authority 2003/4 project. The gangway has not been demonstrated to be a mobile system or anything similar to the proposed system for Broadway Pier. Furthermore, the Prince Rupert Board awarded this contract to Ramsay Machine Works on November 24<sup>th</sup>, 2003. Neither Maritime Hydraulics or CMC Engineering and Management, Ltd. is mentioned in this award.

Based upon the bid language in the specifications and the information provided by Ledcor Construction, staff has determined the bid to be non-responsive. Subsequent to staff's determination that this bid was non-responsive, the Port received a formal protest from Jaynes Corporation claiming the non-responsiveness of Ledcor Construction's bid for the same reasons as determined by staff.

Ledcor Construction was notified in a timely manner that their bid was found to be non-responsive, causing it to be rejected. Further, they were notified that the recommendation to award this contract to the lowest responsive bidder would be on the June 9, 2009 BPC Agenda for consideration by the Board.

Adolfo's Contractor Corp.

Per review of the Adolfo's Contractor Corp. bid package submitted May 19, 2009, the following discrepancies were noted in their Bid Proposal Package:

- 1) Wrong bid schedule was used.
- 2) No bid Bond or Cashier's Check accompanied the bid.
- 3) Subcontractors List was not included in the package.
- 4) Bidder Experience was not filled out.

Adolfo's Contractor Corp. has been notified of the findings causing their bid to be determined non-responsive.

Based upon the low responsive bid of \$17,444,003 submitted by Jaynes Corporation, the total cost to complete this project, including construction, contingency, contract administration, inspection, testing, \$450,000 for public art, and some internal soft costs is estimated at \$21,127,003. Currently there is \$19,297,621 budgeted for this project between the CDP, Major Maintenance, and Environmental Funds, leaving a shortfall of \$1,829,003 needed to complete the project.

Staff recommends that the Board approve the Resolution adopting plans and specifications No. 2008-27, reject the low bid from Ledcor Construction as non-responsive, and award Contract No. 2008-27 to Jaynes Corporation for the Broadway Pier Cruise Ship Terminal, San Diego, California Project in the amount of \$17,444,003. Staff also recommends authorizing the allocation of funds in the amount of \$1,829,003 to the Cruise Ship Terminal Project from the FY 09-13 Capital Development Project Contingency funds. Work is scheduled to start following Board authorization and be completed by December 2010.

Phase 1 of the pier seismic work will be completed through the Broadway Pier Cruise Ship Terminal construction contract. Phase 2 will improve the remainder of the pier and is estimated to cost \$8,000,000. Phase 2 is scheduled to begin construction in FY 2012 and also be funded through the Major Maintenance Program.

At the September 2008 Board meeting, staff was directed to pursue "naming rights" as a potential source of funding for this project. Details on the solicitation are currently being finalized so any funding from this source has not been considered in the project budget as presented. If successful, any funding received could be used to off-set the costs associated with this project and reimburse the CDP contingency.

The public art component of the project was presented to the Board at the September 2008 BPC meeting for conceptual approval. The mounting system for the approved artwork concept is part of this building construction contract. The contract for the artwork itself will be the subject of an agenda item presented to the Board in the near future.

**Port Attorney's Comments:**

The District may properly reject low bids where the bid is deemed non-responsive. The Public Contracts Code also affords the process where low bids are rejected, require notice to the low bidder, and an opportunity to explain deficiencies. Ultimately, staff and the Board determine the responsiveness of the bid and may proceed accordingly as a matter of law.

**Environmental Review:**

A Coastal Development Permit (Document no. 52090) was issued for the subject project in June 2007 per Board resolution 2007-126. Environmental review pursuant to the California Environmental Quality Act (CEQA) was undertaken for the Coastal Development Permit in the form of an Addendum and Initial Study (Document no. 52422). The Board accepted the Addendum and Initial Study for the subject project at its June 2007 meeting per resolution 2007-125 in accordance with the requirements of CEQA. No further environmental review is necessary.

**Equal Opportunity Program:**

A 35% SBE goal was recommended for this project. The recommended company, Jaynes Corporation, identified 10 SBE sub-contractors and achieved a 49% SBE goal.

PREPARED BY: Stephen Kirkpatrick  
Chief Engineer

Brian Stup  
Director of Engineering